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United Nations S/2003/140

Security Council

Distr.: General
4 February 2003
English
Original: English and French

Draft resolution

The Security Council,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire,

Recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation,

Recalling the decision taken by the Economic Community of West African States (ECOWAS) Summit held in Accra on 29 September 2002 to deploy a peacekeeping force in Côte d'Ivoire,

Further recalling its full support for the efforts of ECOWAS to promote a peaceful settlement of the conflict, and also *appreciating* the efforts of the African Union to reach a settlement,

Welcoming the convening, at the invitation of France, of the Round Table of Ivorian political forces, held in Linas-Marcoussis from 15 to 23 January 2003, and the Conference of Heads of State on Côte d'Ivoire, held in Paris on 25 and 26 January 2003,

Welcoming the communiqué issued on 31 January 2003 following the twenty-sixth regular Summit of the Heads of State and Government of ECOWAS held in Dakar as well as the communiqué issued on 3 February 2003 following the seventh ordinary session of the Central Organ of the Mechanism of the African Union for Conflict Prevention, Management and Resolution at Heads of State and Government Level,

Noting the existence of challenges to the stability of Côte d'Ivoire and *determining* that the situation in Côte d'Ivoire constitutes a threat to international peace and security in the region,

1. *Endorses* the agreement signed by the Ivorian political forces in Linas-Marcoussis on 24 January 2003 (S/2003/99) ("the Linas-Marcoussis Agreement") and adopted by the Conference of Heads of State and *calls on* all Ivorian political forces to implement it fully and without delay;

2. *Notes* the provisions in the Linas-Marcoussis Agreement for the formation of a government of national reconciliation and *calls on* all Ivorian political forces to work with the President and the Prime minister towards the establishment of a balanced and stable government;

03-23578 (E) 040203 040203

3. *Also notes* the provisions in the Linas-Marcoussis Agreement providing for the establishment of a Monitoring Committee, *calls on* all the members of that committee to monitor closely compliance with the terms of the Agreement and urges all parties to cooperate fully with the committee;

4. *Expresses its gratitude* to the Secretary-General for the vital role he has played in the smooth conduct of these meetings and *encourages* him to continue to contribute to a final settlement of the Ivorian crisis;

5. *Requests* the Secretary-General to submit to the Council at the earliest possible date recommendations on how the United Nations could support fully the implementation of the Linas-Marcoussis Agreement, in accordance with the request by the Round Table of Ivorian political forces and by the Conference of Heads of State on Côte d'Ivoire, and *declares its readiness* to take appropriate measures on the basis of these recommendations;

6. *Welcomes* the Secretary-General's intention to appoint a Special Representative for Côte d'Ivoire, based in Abidjan, and requests him to do so as soon as possible;

7. *Condemns* violations of human rights and international humanitarian law that have taken place in Côte d'Ivoire since 19 September 2002 and *stresses* the need to bring to justice those responsible and *urges* all parties, including the Government, to take all necessary steps to prevent further violations of human rights and international humanitarian law, in particular against civilians regardless of their origin;

8. *Welcomes* the deployment of ECOWAS forces and French troops with a view to contributing to a peaceful solution of the crisis and, in particular, to the implementation of the Linas-Marcoussis Agreement;

9. *Acting* under Chapter VII of the Charter of the United Nations, and in accordance with the proposal contained in paragraph 14 of the conclusions of the conference of Heads of State on Côte d'Ivoire, authorizes Member States participating in the ECOWAS forces in accordance with Chapter VIII together with the French forces supporting them to take the necessary steps to guarantee the security and freedom of movement of their personnel and to ensure, without prejudice to the responsibilities of the Government of National Reconciliation, the protection of civilians immediately threatened with physical violence within their zones of operation, using the means available to them, for a period of six months after which the Council will assess the situation on the basis of the reports referred to in paragraph 10 below and decide whether to renew this authorization;

10. *Requests* ECOWAS, through the command of its force, and France to report to the Council periodically, through the Secretary-General, on all aspects of the implementation of their respective mandates;

11. *Calls upon* all States neighbouring Côte d'Ivoire to support the peace process by preventing any action that might undermine the security and territorial integrity of Côte d'Ivoire, particularly the movement of armed groups and mercenaries across their borders and illicit trafficking and proliferation of arms in the region, including small arms and light weapons;

12. *Decides* to remain actively seized of the matter.

United Nations S/2003/141

Security Council

Distr.: General
4 February 2003

Original: English

Letter dated 4 February 2003 from the Permanent Representative of Ghana to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you the statement on Côte d'Ivoire issued by the Heads of State and Government of the Economic Community of West African States at their 26th Ordinary Summit, held in Dakar, Senegal, on 31 January 2003 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a Security Council document.

(*Signed*) Nana **Effah-Apenteng**
Permanent Representative of Ghana to the United Nations

03-23592 (E) 040203

Annex to the letter dated 4 February 2003 from the Permanent Representative of Ghana to the United Nations addressed to the President of the Security Council

Statement by the Heads of State and Government of the Economic Community of West African States on Côte d'Ivoire

1. The ECOWAS Heads of State and Government, meeting at their 26th Ordinary Summit in Dakar, Senegal, on 31 January 2003, received the report on the work of the high-level Contact Group of Heads of State and Government from His Excellency President Gnassingbe Eyadema, coordinator of the Contact Group. He briefed his colleagues about the mediation of the Contact Group, which led to the signing of ceasefire agreements with the three Ivorian armed movements.

2. The ECOWAS Heads of State and Government expressed gratitude to President Eyadema for the efforts deployed by him in the search for peace in Côte d'Ivoire.

3. The Heads of State and Government listened to the accounts of the evolution of the Ivorian situation from Mr. Seydou Diarra, Prime Minister-designate under the Marcoussis Accord, Mr. Pascal Affi Nguessan, Prime Minister and also Mr. Guillaume Soro, Secretary-General of the Patriotic Movement of Côte d'Ivoire, who spoke on behalf of the Mouvement patriotique de la Côte d'Ivoire, the Mouvement populaire ivoirien du Grand Ouest and the Mouvement pour la justice et la paix.

4. The Heads of State and Government expressed their deep concern over the persistence of the Ivorian Crisis. They reaffirmed their decision taken on 29 September 2002 at Accra, concerning their preference for a peaceful settlement of the crisis. They therefore resolved to give every support to the outcome of the round table on Côte d'Ivoire, which was held at Linas Marcoussis from 15 to 24 January 2003. They invited all the parties concerned to work together to ensure the scrupulous application of the Marcoussis Accord.

5. The Heads of State and Government decided that ECOWAS would play the role that it was assigned within the framework of the Marcoussis Accord. The Heads of State and Government made a strong appeal to His Excellency President Laurent Gbagbo to be fully involved, to bring the peace process to a satisfactory end.

6. They expressed their preparedness to continue to offer their good offices to facilitate the early return of peace to Côte d'Ivoire.

7. The Heads of State and Government affirmed their support for the legitimate President of Côte d'Ivoire, His Excellency Laurent Gbagbo. It was decided that the ECOWAS Contact Group, which is made up of Ghana, Guinea-Bissau, Mali, Niger, Nigeria and Togo, would continue to monitor and facilitate the application of the Marcoussis Accord. It was decided to enlarge the Contact Group to include Senegal.

8. The members of the Contact Group are to proceed to Abidjan, Côte d'Ivoire on Saturday, 1 February 2003, to meet with President Gbagbo to discuss the current situation in the country.

9. The Heads of State and Government invite all Ivorians to embark on a true national reconciliation so as to keep their country united, strong and prosperous.

They are requested, in this regard, to show a spirit of forgiveness, tolerance and solidarity.

10. The Heads of State and Government expressed profound gratitude to the President of the French Republic, His Excellency Jacques Chirac and his Government for the assistance extended to the region within the context of the resolution of the Ivorian crisis.

11. The Heads of State and Government acknowledged the assistance of the international community.

12. They paid glowing homage to His Excellency Maitre Abdoulaye Wade, His Excellency Gnassingbe Eyadema, coordinator of the ECOWAS Contact Group and His Excellency President Amadou Toumani Toure for all the contributions they have made and continue to make with dedication and competence to ensure the return of peace to Côte d'Ivoire.

United Nations S/2003/142

Security Council

Distr.: General
4 February 2003

Original: English

Letter dated 4 February 2003 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to forward herewith, in my capacity as representative of the current Chairman of the African Union, the text of the communiqué issued by the seventh ordinary session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution, held at the level of Heads of State and Government, at Addis Ababa on 3 February 2003.

I should be grateful if you would have the present letter and the annex circulated as a document of the Security Council.

(*Signed*) Dumisani Shadrack **Kumalo**
Ambassador
Permanent Representative of the Republic
of South Africa to the United Nations

03-23612 (E) 050203

Annex to the letter dated 4 February 2003 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

[Original: English and French]

Communiqué of the seventh ordinary session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution at Heads of State and Government Level

Addis Ababa, 3 February 2003

Following the First Extraordinary Session of the Assembly of the African Union, the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution held its 7th Ordinary Session at the level of Heads of State and Government in Addis Ababa, Ethiopia, on 3rd February 2003. The Session was chaired by the Chairperson of the African Union, President Thabo Mbeki.

The Session examined various conflict situations on the continent in light of the report submitted by the Interim Chairperson of the Commission of the African Union.

The Session also examined the Iraqi crisis

After its deliberations, the Central Organ took the following decisions:

A. BURUNDI

The Central Organ:

1. **WELCOMES** the signing of ceasefire agreements between the Transitional Government of Burundi and the CNDD-FDD of Jean Bosco Ndayikengurukiye, the PALIPEHUTU-FNL of Alain Mugabarabona and the CNDD-FDD of Mr. Pierre Nkurunziza on 7 October and 2 December 2002, respectively. The Central Organ **STRONGLY URGES** the PALIPEHUTU-FNL of Agathon Rwasa to engage in ceasefire negotiations with the Transitional Government of Burundi, without further delay;

2. **APPROVES** the deployment of the African Mission provided for in the 2 December 2002 Ceasefire Agreement and **EXPRESSES** appreciation to the Governments of South Africa, the Federal Democratic Republic of Ethiopia and Mozambique, which have indicated their willingness to contribute troops for the Mission. In this respect, the Central Organ **REQUESTS** South Africa, the chair of the African Union, to lead the efforts to ensure a speedy deployment of the Mission in Burundi and **CALLS ON**

the Burundi Parties to extend full cooperation in order to facilitate the deployment;

3. **APPEALS** to AU Member States and the international community at large, to provide the required financial and logistical support for the deployment of the African Mission. The Central Organ **APPEALS ALSO** for support for the deployment of the African Union Observers, to maintain and consolidate the truce between the Parties pending the deployment of the African Mission.

B. CÔTE D'IVOIRE

The Central Organ:

1. **WELCOMES** the signing of the Linas-Marcoussis Accord of 24 January 2003, which forms a basis for achieving a lasting solution to the crisis, and **URGES** all the parties to honour the commitments made and to create a conducive environment for its speedy implementation;

2. **COMMENDS** the leaders of the region for all the initiatives they have taken since the outbreak of the crisis to bring peace to Côte d'Ivoire and **MANDATES** ECOWAS to continue these efforts and to report to the Union;

3. **REQUESTS** the AU Chairperson and the Interim Chairperson of the Commission to consider appropriate ways and means of strengthening initiatives by ECOWAS;

4. **STRONGLY CONDEMNS** the grave violations of human rights committed against the civilian populations and **URGES** all the parties to respect human rights and international humanitarian law. The Central Organ **REQUESTS** the African Commission on Human and People's Rights to investigate these violations;

5. **REQUESTS** AU Member States, the United Nations and the International Community at large to extend financial and logistical assistance to ECOWAS to facilitate the full deployment of its peacekeeping force in Côte d'Ivoire;

6. **EXPRESSES** its grave concern at the humanitarian and socio-economic impact of the crisis on Côte d'Ivoire and the neighboring countries and **ENCOURAGES** the countries concerned to make concerted efforts to address the situation. It **CALLS ON** the International Community to provide assistance in this regard.

C. CENTRAL AFRICAN REPUBLIC (CAR)

The Central Organ:

1. **SUPPORTS** the efforts made by CEMAC to promote peace and stability in the Central African Republic and the efforts to bring about reconciliation between the Central African Republic and Chad;

2. **WELCOMES** the progress made in the implementation of the measures contained in the Libreville Communiqué of 2 October 2002, including the deployment of the CEMAC troops in the Central African Republic and **REQUESTS** the United Nations and AU Member States to urgently provide the requisite logistical and financial assistance to the CEMAC force, to enable it fulfill its mandate;

3. **ENCOURAGES** President Ange Felix Patasse to pursue his efforts towards the convening of an all-inclusive national dialogue in order to promote national reconciliation in CAR;

4. **FURTHER ENCOURAGES** President El Hadj Omar Bongo of the Gabonese Republic and the other leaders of CEMAC to continue to pursue their efforts.

D. DEMOCRATIC REPUBLIC OF CONGO (DRC)

The Central Organ:

1. **WELCOMES** the conclusion in Pretoria, on 17 December 2002, of the Comprehensive Peace Accord for the Transition in the DRC, and **REQUESTS** all parties concerned to fully cooperate with the Facilitator, Sir Ketumile Masire, in order to convene, as soon as possible, the Inter-Congolese Dialogue that would formally endorse the Pretoria Accord, to ensure its effective implementation;

2. **STRONGLY CONDEMNS** the renewed fighting, which has resulted in grave violations of human rights in the Ituri region. The Central Organ **CALLS** on the Parties concerned to expedite the process of establishing the Ituri Pacification Commission provided for in the Luanda Agreement;

3. **URGES** the Parties to make use of the existing mechanisms to address differences and allegations over non-compliance with the Agreements they have signed;

4. **REQUESTS** the Troika of the Central Organ, under the chairmanship of President Thabo Mbeki, acting on behalf of the African Union, to take all appropriate steps to sustain the momentum in the peace and reconciliation process in the DRC.

E. MADAGASCAR

The Central Organ:

1. **TAKES NOTE** of the evolution of the situation in Madagascar since the Durban Summit and **RECOMMENDS** to the Assembly of the Union to recognize Mr. Marc Ravalomanana as the legitimate President of the Republic of Madagascar;

2. **UNDERSCORES** the need for national reconciliation to create conditions for lasting peace and stability in the country and **REQUESTS** the Interim Chairperson of the Commission to engage the Government and the Malagasy parties, including through the convening of a Round Table to address all outstanding issues related to human rights, the rule of law as well as the issue of political detainees.

F. COMOROS

The Central Organ :

1. **TAKES NOTE** of the outcome of the Ministerial meeting of the countries of the region and the Troika held in Moroni from 28 to 29 January 2003 and **ENDORSES** its recommendations

2. **CALLS ON** the Comoran parties to fully cooperate in the implementation of these recommendations, in particular the holding of legislative elections according to the timetable proposed by the Follow-up Committee of the Fomboni Agreement of 17 February 2001, in order to complete the process of establishing institutions of the Union of the Comoros, including the National Assembly, the Assemblies of the Islands and the Constitutional Court.

G. LIBERIA

The Central Organ:

REITERATES its appeal to the UN Security Council to reconsider its decision on the sanctions imposed against Liberia.

H. DECLARATION ON THE IRAQI CRISIS

The Central Organ of the Mechanism for Conflict Prevention, Management and Resolution of the African Union, meeting in its 7th Ordinary Session at Summit level on 3 February 2003 in Addis Ababa, Ethiopia, expresses its deep concern over the heightened international tension arising from the issue of the disarmament of Iraq.

The Central Organ is of the view that a military confrontation in Iraq would be a destabilizing factor for the whole Region and would have far reaching economic and security consequences for all the countries of the world and, particularly, for those of Africa.

The Central Organ, under these circumstances, reiterates its commitment to the effective implementation of Resolution 1441 which requires that all weapons of mass destruction in Iraq should be eliminated and that Iraq should cooperate fully with the UN Inspection Team in this regard.

The Central Organ declares that the territorial integrity of Iraq should be respected and underlines that all diplomatic means should be pursued by International Community to ensure that the Iraqi Government complies fully with the provisions of Resolution 1441 and that, in any case, any new decision on the matter should emanate from the UN Security Council, after a consideration of the final Report of the Inspection Team.

The Central Organ urges all the parties to make sustained efforts to avoid the use of force, while ensuring the implementation of the relevant resolutions of the Security Council.

Finally, the Central Organ reaffirms the central role of the United Nations and, particularly, the Security Council, in any action or initiative aimed at maintaining and strengthening peace and international security.

United Nations S/2003/143

Security Council

Distr.: General
4 February 2003

Original: English

Letter dated 3 February 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1455 (2003) of 17 January 2003, in paragraph 8 of which I was requested, acting in consultation with the Security Council Committee established pursuant to resolution 1267 (1999), to reappoint five experts, drawing, as much as possible and as appropriate, on the expertise of the members of the Monitoring Group established pursuant to paragraph 4 (a) of resolution 1363 (2001), to monitor for a further period of 12 months the implementation of the measures referred to in paragraph 1 of resolution 1455 (2003) and to follow up relevant leads relating to any incomplete implementation of those measures.

In the light of that request, I wish to inform you that I have hereby reappointed the Monitoring Group in order to perform the tasks referred to above until 17 January 2004.

The composition of the Monitoring Group will remain unchanged and will consist of Michael Chandler (United Kingdom) (Chairman), Hassan H. Ali Abaza (Jordan), Victor Comras (United States of America), Philippe Graver (France) and Surendra Bahadur Shah (Nepal).

(*Signed*) Kofi A. **Annan**

03-23606 (E) 050203

United Nations S/2003/144

Security Council

Distr.: General
5 February 2003
English
Original: Arabic

Identical letters dated 3 February 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the daily report on the activities of the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq on 3 February 2003.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed **Aldouri**
Permanent Representative of Iraq

03-23636 (E) 130203 130203

Annex to the identical letters dated 3 February 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

Report on the activities of the UNMOVIC and IAEA inspection teams in Iraq

Inspection activities on 3 February 2003

I. IAEA inspection team

Group I: The group, composed of three inspectors, left the Canal Hotel in Baghdad at 9 a.m. and arrived at Suwayrah Square, 35 kilometres south of Baghdad. The group took a radiometric survey using hand-held devices at the site of the Iraqi Seed Production Company, the semi-public Suwayrah Purification Plant, a private poultry-breeding farm, a fish hatchery belonging to the Ministry of Agriculture, and a military unit. The group then took a radiometric survey in the Salman Bak district in order to detect any alleged radioactivity. The group completed its assignment, which lasted three hours, then returned to the Canal Hotel.

Group II: This group, composed of seven inspectors, left the Canal Hotel in Baghdad at 9.15 a.m. and arrived at the Ibn al-Haytham site belonging to the Karamah State Company, a subsidiary of the Military Industrialization Corporation (MIC). The group inspected the warehouses on the site and checked and photographed the tagged equipment and also photographed the outer gate of the site. The group completed its assignment, which lasted three hours, then returned to the Canal Hotel.

II. UNMOVIC missile inspection team

1. **Group I**: This group, composed of six inspectors, left the Canal Hotel in Baghdad at 8.15 a.m. for the Qa'Qa' State Company, a subsidiary of the Military Industrialization Corporation. The group arrived at the Martyr Majid Factory and met with the factory Director, whom it questioned on the compound fuel production process, then inspected the buildings containing the compressors and the tagged equipment. The group completed its assignment, which lasted three hours, then returned to the Canal Hotel.

2. **Group II**: This group, composed of four inspectors, left the Canal Hotel at 8.30 a.m. and arrived at the Salam State Company, a subsidiary of the Military Industrialization Corporation, located 20 kilometres north of Baghdad. The group met with officials of the company and asked them about its work, then inspected the research laboratories and electronics workshops. The group completed its assignment, which lasted three hours, then returned to the Canal Hotel.

3. **Group III**: This group, composed of four inspectors, left the Canal Hotel in Baghdad at 8.40 a.m. and arrived at the Sa'd State Company, a subsidiary of the Military Industrialization Corporation (MIC), located in Karadat Maryam, Baghdad. The group met with the Director and officials of the company and asked them about

the projects on which it was working. The group then inspected some of the company's departments. The group completed its assignment, which lasted two and three quarters hours, then returned to the Canal Hotel.

4. **Group IV**: This group, composed of 10 inspectors, left the Canal Hotel in Baghdad at 8.30 a.m. and arrived at Al-Quds Factory belonging to the Karamah State Company, a subsidiary of the Military Industrialization Corporation (MIC). The group met with the factory Director, whom it asked some technical questions concerning the factory's products. The group then inspected the quality control laboratory and the monitoring and control departments, as well as the tagged equipment and biannual declarations. The group completed its assignment, which lasted three and a half hours, and returned to the Canal Hotel.

III. UNMOVIC biological inspection team

1. **Group I**: This group, composed of seven inspectors, left the Canal Hotel in Baghdad at 8.30 a.m. and arrived at the Nida' State Company, a subsidiary of the Military Industrialization Corporation (MIC), located in Za'faraniyah, a suburb of Baghdad. The group met with the Director of the company and asked him about the moulds produced at the site. The group then inspected an open courtyard outside the Nida' Company fence, belonging to the Nu'man Factory, in which there were various metallic containers. The group completed its assignment, which lasted four hours, and returned to the Canal Hotel.

2. **Group II**: This group, composed of seven inspectors, left the Canal Hotel in Baghdad at 8.40 a.m. and arrived at the Kindi College of Medicine of the University of Baghdad. The group met with the Dean of the College and asked him about various departments, particularly the tropical diseases research unit, its work and staff holding a doctoral degree. The group then went to the College's tropical diseases research unit in Jadiriyah and asked to be briefed on its work and the types of immunological studies being carried out there. The group completed its assignment, which lasted four hours, and returned to the Canal Hotel.

3. **Group III**: This group, composed of nine inspectors, left the Canal Hotel in Baghdad at 8.40 a.m. and arrived at the site of the closed down Salam Factory, located in the Mada'in (Salman Bak) region, 40 kilometres south of Baghdad. This site is currently occupied by a military unit. The group inspected the closed buildings and the former laboratory building, then drove around the buildings and took radiometric surveys of the floors of the warehouse buildings, using hand-held devices, in order to detect any alleged radioactivity and photographed the military unit's rations warehouse. The group completed its assignment, which lasted two hours, then returned to the Canal Hotel.

4. **Group IV**: This group, composed of five inspectors, left the Canal Hotel in Baghdad at 9 a.m. and arrived at the Department of Applied Sciences of the Technological University. The group met with the Chairman of the Department and asked him about the Biochemical Technologies Division, the date on which the Department had been established, the number of professors and the type of subjects taught to the students. The group then inspected the laboratories of the Chemical Technologies Division. The group completed its assignment, which lasted one hour, then returned to the Canal Hotel.

IV. UNMOVIC chemical inspection team

The team, composed of 14 inspectors, left the Canal Hotel in Baghdad at 7 a.m. and arrived at the Arab Detergents Company, an Arab joint stock company, in Bayji. The team asked company officials about changes in the company since 1998 and the number of employees and their specializations. The team then inspected the company's production sites, during which time it used a gas-testing device, took seven samples and took swabs from various sites. The team completed its assignment, which lasted five hours.

V. Aerial reconnaissance team

The aerial reconnaissance plane (helicopter) took off from the Rashid airfield at 11 a.m. and arrived at the Bayji Refinery and the Arab Detergents Company while the chemical inspection team was at the company. The team took aerial photographs of the Bayji Refinery and the Arab Detergents Company. The team completed its assignment and returned to the Rashid airfield.

United Nations S/2003/145

Security Council

Distr.: General
4 February 2003

Original: English

Letter dated 31 January 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Marshall Islands, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

03-24142 (E) 130203

Annex

Note verbale dated 13 January 2003 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of the Marshall Islands presents its compliments to the Chairman of the Counter-Terrorism Committee of the Security Council and has the honour to submit the response of the Government of the Republic of the Marshall Islands to Security Council resolution 1373 (2001) of 28 September 2001 with regard to efforts being made by States to combat terrorism (see enclosure).

Enclosure

Response of the Republic of the Marshall Islands to the implementation of United Nations Security Council resolution 1373 (2001)

Introduction

The Republic of the Marshall Islands (RMI), a group of atolls located in the North Pacific Ocean, is a sovereign country in free association with the United States. The population of RMI is approximately 65,000.

The financial system in RMI is a relatively small one, with total banking system asset of $87.2 million and total deposit of $77.4 million. Structurally, the industry comprises of three banks[1] -- two of which are FDIC (Federal Deposit Insurance Corporation) covered and therefore subjected to the stringent AML requirements of the U.S. Bank Secrecy Act and the Patriot Act--, a government owned development bank whose primary function is to render development lending in government prioritized sectors, and several low-volume insurance agencies that primarily sell policies on behalf of foreign insurance companies.

The financial sector is highly monetized with domestic deposit exceeding 50% of Gross Domestic Deposit. In realization of the country's vulnerability to systemic shock in the financial sector, the Government had introduced a reform program geared toward enhancing transparency, accountability and good governance. Amongst other initiatives, the reform program calls for the establishment of the requisite infrastructure for detecting, preventing, and combating money laundering.

Background

Following FATF's (Financial Action Task Force) June 2000 designation of the Marshall Islands as non-cooperative jurisdiction in the international efforts to combat money laundering, GRMI enacted an Anti-money Laundering legislation that addressed most, if not all the concerns raised by FATF. The law, which was enacted in October 31 2000 criminalizes money laundering, requires institutions to undertake vigilance in customer identification and record keeping as well as suspicious transaction reporting. The law additionally establishes regulatory authority within the Banking Commission, relaxes secrecy obligations under all laws of RMI, and provides mechanisms for forfeiture and confiscation of tainted assets, exchange of information and international cooperation.

In September 2002, amendments were made to the Anti-money laundering Act, to remove the $10,000 threshold for transaction record keeping and to provide for the reporting of large currency transactions (over $10,000) and civil money penalty. Implementing regulations have been promulgated and have also accounted for the latest amendments to the AML law.

[1] One of the three banks, Bank of Hawaii, is currently winding up its operation in the Marshall Islands. The voluntary liquidation is in its advance stage and should be completed by the end of the year.

Specific Initiatives

Since passage of its AML law and the subsequent promulgation of implementing regulations, the RMI has undertaken a number of initiatives to further strengthen its AML regime. Some of these are highlighted below:

REGULATORY FRAMEWORK

The main focus of the Republic of the Marshall Islands in 2002 was to establish an effective regulatory scheme to implement the Banking Amendment Act. The Commissioner of Banking and members from the Office of Attorney General worked with the FDIC to draft a set of regulations that provide the criteria and standards for reporting and compliance as required under the Act. The regulations, codified on May 27, 2002, and slightly amended September 2002, are modeled after the anti-money laundering regulations established in the United States and Australia. The regulations include the following: 1) ownership control reporting requirements for financial institutions and cash dealers; 2) establishment of written anti-money laundering policies, appointment of compliance officers within each financial institutions and cash dealers, and training programs by financial institutions and cash dealers; 3) record keeping requirements for accounts; 4) record keeping requirements for transactions; 5) suspicious transaction reports; 6) cash transaction reports; and 7) civil monetary penalties.

To date, the Banking Commission has issued two sets of advisories on suspicious transaction reporting and large currency transaction reporting. The Advisories are accompanied by reporting forms and instructions that mirrors those used in the United States. As a supplement to the Advisories, Guidelines on customer due diligence and record keeping have also been issued to the industry. The United Nations Drug Control and Crime Prevention Program provided technical Assistance on the framing of the Guidelines.

Additionally, the Banking Commission and the Attorney General's Office worked with FDIC on the formulation of a set of examination policies and an examination procedures manual. Both sets of documents are being used by examiners from the Banking Commission as guides in the on-site reviews of bank's and financial institutions' compliance with the AML law and regulations.

FINANCIAL INTELLIGENCE UNIT

RMI's financial intelligence unit is now fully operational and has formally entered the Egmont Group of FIUs. FIU processes – receiving, analyzing, and dissemination of financial intelligence -- have been streamlined. Standard Operating Procedures have been established to systemize the FIU process. An electronic database that is Excel-based has been created and all disclosures from the financial industry are recorded and analyzed electronically. With the recently secured Technical Assistance from the United States Department of State, the database will be upgraded to enable remote on-line access by all members of the FIU.

At present, the FIU database stands at 1,500 CTRs, 5 SARs, and several in-bound and out-bound request for assistance.

COMPLIMENTARY LAWS

1. At its meeting on 8 August 2002, the Cabinet approved (C.M. 111(2002)) the enactment of the following legislations to implement the Honiara Declarations and the U.N. Resolution 1373: **(1) Mutual Assistance in Criminal Matters Act, 2002 (2) The Controlled Substance Act, 2002 (3) The Transnational Extradition and Transfer of Convicted Persons Act of the Year 2002 (4) The Foreign Evidence Act, 2002 (5) The Omnibus Counter-Terrorism Act, 2002.**

While not a signatory to the Vienna Convention, the RMI is moving forward to enact legislations envisaged under the Convention. In October 2002, RMI's Parliament has enacted a Proceeds of Crime Act, Foreign Evidence Act, Mutual Assistance in Criminal Matters Act, and a Counter-Terrorism Act.

RATIFICATION OF INTERNATIONAL CONVENTIONS

Approval of the ratification of all 12 UN Counter Terrorism Conventions have been obtained from both the Executive and the Legislative branches. RMI is party to 6 of the 12 conventions and protocols (which are civil aviation and maritime conventions): **(1) The International Convention on Offences and Certain Other Acts Committed on Board Aircraft (2) The Convention for the Suppression of Unlawful Seizure of Aircraft (3) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (4) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (5) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (6) The Protocol for the Suppression of Unlawful Acts against the Safety if Fixed Platforms located on the Continental Shelf.** RMI's Parliament, Nitijela, recently passed resolutions in its last sitting session of January 2002 approving the ratification of the remaining 6 counter-terrorism conventions. Currently arrangements are being made to deposit instruments of accession to **1) The International Convention for the Suppression of the Financing of Terrorism 2) The International Convention for the Suppression of Terrorist Bombings 3) The Convention on the Marking of Plastic Explosives for the Purpose of Detection 4) The Convention on the Physical Protection of Nuclear Weapons 5) The International Convention against the Taking of Hostages and 6) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Domestic Agents.**

INTERNATIONAL COOPERATION

In June 2002, the Marshall Islands DFIU, after being sponsored by the United States, was granted full membership in the Egmont Group. Membership in the Egmont Group is highly valued by the Marshall Islands because it enables the DFIU to develop communications with other financial intelligence units (FIUs). In fact, the benefits of membership have already occurred. Australia is seeking to sign an information sharing agreement with the Marshall Islands.

During that same period, the Marshall Islands also became a member of the Asia/Pacific Group on Money Laundering. The Marshall Islands looks forward to using the Asia/Pacific Group to develop and strengthen its ties with the other member states in the region.

RMI is also a founding member of the recently established Pacific Islands Financial Supervisors, a group of regulators from the PIF (Pacific Islands Forum) countries that will be representing the region in the Basel Group.

ON-SITE EXAMINATION

Since the establishment of the statutory and regulatory framework, the Banking Commission has conducted on-site examinations of financial institutions and cash dealers. The examination process comes in three part: (1) Core Analysis, (2) Expanded Analysis, and (3) Impact Analysis. Core analysis has been completed for the all institutions and expanded analysis has commenced for one of the three banks. On-site examination for safety and soundness as well as for AML compliance has been made a routine task for the Commission and will be undertaken on a yearly bases.

THE WAY FORWARD

For the Republic of the Marshall Islands, effective implementation will be a key factor in the reform that is well underway.

Operative Paragraph 1

Sub-paragraph (a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d):

1. In October 2000, RMI enacted it anti-money laundering legislation. This has served as the legislative basis for all anti-money laundering initiatives – including suppression of terrorist financing -- undertaken by the Republic. Among other things, the Act in effect: (a) criminalizes money laundering; (b) establishes requirements for customer identification and record keeping; (c) requires the reporting of suspicious transactions by financial institutions and cash dealers; (d) establishes supervisory authority with the Commissioner of Banking; (e) overrides any secrecy obligation; (f) establishes the means for freezing and forfeiture of assets in relation to money laundering; and (g) facilitates international cooperation and mutual assistance in deterring money laundering.

2. Through a Cabinet Directive (C.M. 236(2000)), RMI established its Financial Intelligence Unit in November 21, 2000. Formally called the Domestic Financial Intelligence Unit, the Unit is currently in full operation and is in constant contact with FinCEN and has formally entered the Egmont Group of FIUs. FIU processes – receiving, analyzing, and dissemination of financial intelligence -- have been streamlined. Standard Operating Procedures have been established to systemize the FIU process. An electronic database that is Excel-based has been created and all disclosures from the financial industry are recorded and analyzed electronically. With the recently secured Technical Assistance from the United States Department of State, the database will be upgraded to enable remote on-line access by all members of the FIU.

3. The Banking Commission's Advisory A-01 instructs banks and financial institutions to report to the Commission or the DFIU any suspicious transactions

or activities being transacted through or conducted within the institutions. Advisory A-02, issued in March 14, 2002, mandates the reporting of currency transactions exceeding $10,000.

4. Upon receipt of the OFAC List from the U.S. Embassy in Majuro, the Banking Commission had issued Advisory B-01, instructing banks and financial institutions to search their records for possible matches on the list and subsequently to freeze related accounts/transactions in case of positive match. The List was again updated on 27 September 2001, 18 October 2001, 28 December 2001, and 13 May 2002 through Advisory B-02, Advisory B-03, Advisory B-04 and Advisory B-05 respectively. Up till now, no match has been identified by financial industry and the Commission has advised the industry to enhance their customer due diligence process. Banks especially have been put on alert for possible transaction from each of the individual and organizations on the OFAC List.

5. Beginning in March 2002, the Banking Commission has commenced its periodic audit of Banks to ensure their compliance with the AML legislation. As part of this process, the examiners are required to look into the processes undertaken by the financial institutions in compliance with Advisory B. The Commission is satisfied with the result of the audit, which utilizes examination procedures established by the Federal Deposit Insurance Corporation.

Sub-paragraph (b) – What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph? '(b) Criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts"

1. Terrorism and terrorist financing are not specifically criminalized under existing RMI laws; However, certain acts which may be integral to terrorism and terrorist financing have been criminalized under the Criminal Code and the AML legislation. At present, the RMI relies on its Criminal Code and Banking Act – within which the AML legislation is incorporated – for administrative and criminal sanctions related to terrorism.

2. The CT legislation, which will criminalize terrorism and define criminal and administrative sanctions to impose for such act, is being submitted to the Nitijela for enactment during its 24th Regular Session, which is currently on break and is expected to resume on 12 September 2002.

Sub-paragraph (c) – What legislations and procedures exist for freezing accounts and assets at banks and financial institutions?

1. At present, the mechanism defined under the AML legislation may be utilized for freezing account/asset. Upon suspicion, the Commissioner of Banking or the Attorney General has a 24-hour window of opportunity for seizure and detention after which a court order is required.

2. Conviction is required for confiscation of assets. And either the Commissioner of Banking or the Attorney General is required to obtain a judicial order for any confiscation.

3. Section 8 of the Counter-Terrorism Act, 2002, states that

1. "Any person convicted of a terrorism offense shall be liable to forfeit to the Marshall Islands, irrespective of any other provision of law: (a) any property, real or personal, owned, possessed, or used by a person involved in the offense; (b) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such offense; and (c) any of the property used in any matter or part, to commit, ort to facilitate the commission of, such offense;

2. Weapons of mass destruction, plastic explosives, and nuclear material shall be seized, confiscated and forfeited to the Marshall Islands; and the Attorney General shall provide for their destruction for their destruction or other appropriate disposition.

3. For the purpose of forfeiture proceedings under this section, a temporary restraining order and seizure warrant may be entered upon application of the Attorney General without notice or opportunity for a hearing when an information or complaint has not yet been filed with respect to the property, where there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

4. The provisions of this section shall be implemented without prejudice to the rights of third parties acting in good faith.

5. The owner or possessor of any property seized under this section shall be liable to the Marshall Islands for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property."

Sub-paragraph (d)- What measures exist to prohibit activities in listed in this sub-paragraph? "Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons".

1. The Banking Commission relies on the OFAC list provided by the U.S. Embassy to advise and place the financial industry on alert.

Operative Paragraph 2

Sub-paragraph (a) – What legislation or other measures are in place to give effect to this sub-paragraph? "Refrain from providing any forms of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members or terrorist groups and eliminating the supply of weapons to terrorists? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

(i)

1. **Section 18 Subsection 2C of the Counter-Terrorism Act** states that "The Marshall Islands shall cooperate in the prevention of terrorism by exchanging accurate and verified information to provide early warning of possible terrorism, in particular conducting inquiries, with respect to terrorists and members of terrorist organizations, concerning (a) the identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they engage in terrorism or are members of a terrorist organization, (b) the movement of funds linked to persons who engage in terrorism or are members of a terrorist organization;" and
2. **Subsection 2D** states that "The Marshall Islands shall cooperate in the prevention of terrorism by exchanging accurate and verified information to provide early warning of possible terrorism, in particular conducting inquiries, with respect to terrorists and members of terrorist organizations, concerning participation in research and development and exchange of information regarding methods of detection of cross border movement of terrorists and members of terrorist organizations, including detection of forged or falsified travel documents, traffic in arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials, or use of communications technologies by terrorist groups."
3. **Section 24** states that "All airlines, ships, and other entities that provide transportation, conveyance or freight services to and from the Marshall Islands shall be authorized and required to immediately report to the Attorney General through disclosure of passenger manifests and any other available means, the intended movement of suspected terrorists into or out of the Marshall Islands, and information regarding possible forged or falsified travel documents, traffic arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials."

(ii)

4. **Section 25** states that "Except as authorized by the Cabinet, any person who knowingly, by any means, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, imports, exports, or manufactures a weapons of mass destruction, commits a crime punishable by the penalties established by section 7 of this Act; provided, however, where such was done with the intent to engage in terrorism or with knowledge that the weapon of mass destruction is intended to be used for terrorism, the maximum fine shall be fifty million United States dollar (US$50,000,000) for natural persons and fifty million United States dollar (US$50,000,000) for legal persons. Any person who, without lawful authority expressly given by the Cabinet of the Marshall Islands, uses or deploys a weapon of mass destruction, commits a crime punishable by the penalties established by section 7 of this Act; provided, however the maximum fine shall be increased to $1,000,000,000 for natural persons and $10,000,000,000 for legal persons."

Sub-paragraph (b) – What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

In the Counter-Terrorism Act 2002, Section 16 states that "The Attorney General, and other law enforcement authorities and officers of the Marshall Islands designated by the Attorney General shall have the authority to share and disclose intelligence information relating to terrorism, terrorist organizations, transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and to provide early warning of such matters to the competent law enforcement authorities of (1) any foreign State, that is a State Party to an international terrorism convention in respect of which the Marshall Islands is also a Party; (2) any foreign State that is a member of the Pacific Islands Forum; (3) the United States, in accordance with the duties and responsibilities of the Marshall Islands under the Compact of Free Association with the United States; (4) any other foreign State that is a member of the United Nations."

Sub-paragraph (c) - What legislation or procedures exist for denying safe haven to territories, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

Section 17 of the Counter-Terrorism Act 2002 states that "The Republic of the Marshall Islands shall not grant refugee status or provide asylum or safe haven to any terrorist, or to any alleged offender.

Sub-paragraph (d) – What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

Section 18, Subsection 1 of the Counter-Terrorism Act 2002 states that "The Marshall Islands shall cooperate with the competent authorities of the United Nations and the Pacific Islands Forum in the prevention of terrorism by taking all practicable measures to prevent and counter preparations in the Marshall Islands for the perpetration of terrorism within or outside the territory of the Marshall Islands, including measures to prohibit illegal activities of persons and organizations that knowingly encourage, instigate, organize, finance, or engage terrorism."

Sub-paragraph (e) – What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Section 7 of the Counter-Terrorism Act, 2002, states that:

1. Unless otherwise provided, any person convicted of an offense against this Act shall where no other punishment is prescribed be punishable by a term of imprisonment of not less than 30 years and maximum term of life, or a fine of notmore than USD$1,000,000; or both such term of imprisonment and a fine; provided that nay person convicted shall not be entitled to probation for an offence committed under this Act, and term of imprisonment imposed shall not run concurrently with any other term of imprisonment.

2. In lieu of the amount of the fine otherwise authorized by this Act, and in addition to any term of imprisonment, a defendant who derived profits or otherproceeds from a crime established by this Act may be liable to fine of not more than twice the gross profits or other proceeds, where the profits or proceeds from the offense exceed the maximum assessable fine.

3. A person commits a crime, punishable under the subsection (1), if that person knowingly:

(a) attempts, conspires, or threatens to commit;
(b) participates as an accomplice in;
(c) organizes or directs others to commit;
(d) contributes to the commission of;

any crime established by this Act.

4. Notwithstanding any provision of any other law, statute of limitation shall not apply in respect of a crime established under this Act.

5. Where there is reasonable ground to believe that detention of any person is necessary for the purpose of preventing such person from engaging in acts of terrorism; or to prevent any person from interfering with an investigation relating to suspected terrorism, any law enforcement officer, immigration officer, immigration officer, or customs official in the Marshall Islands shall have the powers to detain such person for a period of 48 hours for purposes of investigation; provided, however, such period of detention may be extended by court order for an additional 7 days, without the filing of criminal charges against such person.

6. The court, in imposing sentence on any person convicted of a terrorism offense, shall order, in addition to any other sentence imposed, that the person forfeit to the Marshall Islands all property described in section 8.

Section 8 of the Counter-Terrorism Act, 2002, states that

1. "Any person convicted of a terrorism offense shall be liable to forfeit to the Marshall Islands, irrespective of any other provision of law: (a) any property, real or personal, owned, possessed, or used by a person involved in the offense; (b) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such offense; and (c) any of the property used in any matter or part, to commit, ort to facilitate the commission of, such offense;

2. Weapons of mass destruction, plastic explosives, and nuclear material shall be seized, confiscated and forfeited to the Marshall Islands; and the Attorney General shall provide for their destruction for their destruction or other appropriate disposition.

3. For the purpose of forfeiture proceedings under this section, a temporary restraining order and seizure warrant may be entered upon application of the Attorney General without notice or opportunity for a hearing when an information

or complaint has not yet been filed with respect to the property, where there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

4. The provisions of this section shall be implemented without prejudice to the rights of third parties acting in good faith.

5. The owner or possessor of any property seized under this section shall be liable to the Marshall Islands for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property."

Sub-paragraph (f) – What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

Section 15 of the Counter-Terrorism Act 2002 states that (i) "The Attorney General may make a request on behalf of the Marshall Islands to the appropriate authority of a foreign State, or grant requests of a foreign State, for legal assistance in any investigation or proceeding relating to terrorism, or a terrorist organization. (ii) Mutual legal assistance provided under this Act shall be carried-out pursuant to and in accordance with the Mutual Assistance in Criminal Matters Act, 2002."

Sub-paragraph (g) – How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

Section 23 of the Counter-Terrorism Act 2002 states that

1. The following persons shall be inadmissible to the Marshall Islands for purposes of immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of the prosecution or extradition for a terrorist offense: (a) a foreign national (i) convicted of a terrorism offense; or (ii) who admits to having engaged in terrorism; or (iii) as to whom there is probable cause to believe such person has engaged in terrorism; (iv) who the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely after entry, to engage in terrorism; or (v) who has used his or her position of prominence within any country to endorse or espouse terrorism, or to persuade others to support terrorism or a terrorist organization, in a way that the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (vi) who is a representative of a terrorist organization, specified as such in regulations promulgated by the Minister or designated as a terrorist organization by the United Nations Security Council; or (vii) who is a representative of a political, social, or other similar group whose public endorsement of terrorism, or terrorist organizations, the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (b) A foreign who the Minister, after consultation with the Attorney General, determines has been associated with a terrorist organization or terrorism and intends while in the Marshall Islands to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the Marshall Islands.

2. A person who is the spouse or the child of an foreign national who is inadmissible under subsection 1, shall also be inadmissible, if the activity causing the foreign national to be found inadmissible occurred within the last 5 years.
3. Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be inadmissible to be admitted to the Marshall Islands for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense.

Additionally, **Section 24 of the Counter-Terrorism Act** states that "All airlines, ships, and other entities that provide transportation, conveyance or freight services to and from the Marshall Islands shall be authorized and required to immediately report to the Attorney General through disclosure of passenger manifests and any other available means, the intended movement of suspected terrorists into or out of the Marshall Islands, and information regarding possible forged or falsified travel documents, traffic in arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials.

Operative Paragraph 3

Sub-paragraph (a) – What steps have been taken to intensify and accelerate the exchange of operational information in the areas of indicated in this sub-paragraph? "Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups".

Section 24 of the Counter-Terrorism Act 2002 states that "All airlines, ships, and other entities that provide transportation, conveyance or freight services to and from the Marshall Islands shall be authorized and required to immediately report to the Attorney General through disclosure of passenger manifests and any other available means, the intended movement of suspected terrorists into or out of the Marshall Islands, and information regarding possible forged or falsified travel documents, traffic in arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials.

Sub-paragraph (b) – What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph? "Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts".

Section 16 of the Counter-Terrorism Act 2002 states that: "The Attorney General, and other law enforcement authorities and officers of the Marshall Islands designated by the Attorney General shall have authority to share and Disclose intelligence information relating to terrorism, terrorist organizations, Transnational organized crime, illicit drugs, money-laundering, illegal arms-Trafficking, and illegal movement of nuclear, chemical, biological and other

potentially deadly materials, and to provide early warning of such matters to the competent law enforcement authorities of:

1) any foreign State, that is State Party to an international terrorism convention in respect of which the Marshall Islands is also a Party;

2) any foreign State that is a member of the Pacific Islands Forum;

3) the United States, in accordance with the duties and responsibilities of the Marshall Islands under the Compact of Free Association with the United States;

4) any other foreign State that is a member of the United Nations;

Sub-paragraph (c) – What steps have been taken to cooperate in the areas indicated in this sub-paragraph? "Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts".

Currently arrangements are being made to deposit instruments of accession to 1) The International Convention for the Suppression of the Financing of Terrorism 2) The International Convention for the Suppression of Terrorist Bombings 3) The Convention on the Marking of Plastic Explosives for the Purpose of Detection 4) The Convention on the Physical Protection of Nuclear Weapons 5) The International Convention against the Taking of Hostages and 6) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Domestic Agents.

In June 2002, the Marshall Islands DFIU, after being sponsored by the United States, was granted full membership in the Egmont Group. Membership in the Egmont Group is highly valued by the Marshall Islands because it enables the DFIU to develop communications with other financial intelligence units (FIUs). In fact, the benefits of membership have already occurred. Australia is seeking to sign an information sharing agreement with the Marshall Islands.

During that same period, the Marshall Islands also became a member of the Asia/Pacific Group on Money Laundering. The Marshall Islands looks forward to using the Asia/Pacific Group to develop and strengthen its ties with the other member states in the region.

Additionally, on 6 January 2003, a letter of agreement on combatting money laundering between the Government of the United States of America (USG) and the Government of the Republic of the Marshall Islands (GRMI) was signed. This project is designed to establish GRMI capability to (a) to detect and deter money laundering, (b) strengthen the operation of the Domestic Financial Intelligence Unit, (c) protect the confidentiality of the data disclosed to the Domestic Financial Intelligence Unit and (d) share financial intelligence with international administrative authorities. Actions to be taken include the purchase and installation of computer equipments that will be used for storage and analysis of financial disclosures from RMI's financial industry.

RMI is also a founding member of the recently established Pacific Islands Financial Supervisors, a group of regulators from the PIF (Pacific Islands Forum) countries that will be representing the region in the Basel Group.

Sub-paragraph (d) – What are your government's intentions regarding the signing and/or ratifying the conventions and protocols referred to in this sub-paragraph? "Become parties as soon as possible to the relevant international conventions and

protocols relating to terrorism, including the International Convention for the Suppression of Financing of Terrorism of 9 December 1999".

1. RMI is party to 6 of the 12 conventions and protocols (which are civil aviation and maritime conventions): **(1) The International Convention on Offences and Certain Other Acts Committed on Board Aircraft (2) The Convention for the Suppression of Unlawful Seizure of Aircraft (3) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (4) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (5) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (6) The Protocol for the Suppression of Unlawful Acts against the Safety if Fixed Platforms located on the Continental Shelf.**

2. RMI's Parliament, Nitijela, recently passed resolutions in its last sitting session of January 2002 approving the ratification of the remaining 6 counter-terrorism conventions. Currently arrangements are being made to deposit instruments of accession to **1) The International Convention for the Suppression of the Financing of Terrorism 2) The International Convention for the Suppression of Terrorist Bombings 3) The Convention on the Marking of Plastic Explosives for the Purpose of Detection 4) The Convention on the Physical Protection of Nuclear Weapons 5) The International Convention against the Taking of Hostages and 6) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Domestic Agents.**

3. At its meeting on 8 August 2002, the Cabinet approved (C.M. 111(2002)) the enactment of the following legislations to implement the Honiara Declarations and the U.N. Resolution 1373: **(1) Mutual Assistance in Criminal Matters Act, 2002 (2) The Controlled Substance Act, 2002 (3) The Transnational Extradition and Transfer of Convicted Persons Act of the Year 2002 (4) The Foreign Evidence Act, 2002 (5) The Omnibus Counter-Terrorism Act.**

Sub-paragraph (e) – Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph. "Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001).

RMI is party to 6 of the 12 conventions and protocols (which are civil aviation and maritime conventions): **(1) The International Convention on Offences and Certain Other Acts Committed on Board Aircraft (2) The Convention for the Suppression of Unlawful Seizure of Aircraft (3) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (4) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (5) The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (6) The Protocol for the Suppression of Unlawful Acts against the Safety if Fixed Platforms located on the Continental Shelf.**

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1) The International Convention for the Suppression of the Financing of Terrorism 2) The International Convention for the Suppression of Terrorist Bombings 3) The Convention on the Marking of Plastic Explosives for the Purpose of Detection 4) The Convention on the Physical Protection of Nuclear Weapons 5) The International Convention against the Taking of Hostages and 6) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Domestic Agents.

The Counter-Terrorism Act 2002 is an act for the prevention and combating of terrorism in the Republic of the Marshall Islands, for international cooperation to combat threats to international peace and security caused by terrorist acts, and for related purpose. As such, actions called for in Security Council resolution 1269 (1999) and Security Council resolution 1368 (2001) are covered in the Act.

Sub-paragraph (f) – What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

Section 17 of the Counter-Terrorism Act 2002 states that "The Republic of the Marshall Islands shall not grant refugee status or provide asylum or safe haven to any terrorist, or to any alleged offender.

Section 23 of the Counter-Terrorism Act 2002 states that:
1. The following persons shall be inadmissible to the Marshall Islands for purposes of immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of the prosecution or extradition for a terrorist offense: (a) a foreign national (i) convicted of a terrorism offense; or (ii) who admits to having engaged in terrorism; or (iii) as to whom there is probable cause to believe such person has engaged in terrorism; (iv) who the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely after entry, to engage in terrorism; or (v) who has used his or her position of prominence within any country to endorse or espouse terrorism, or to persuade others to support terrorism or a terrorist organizatcn, in a way that the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (vi) who is a representative of a terrorist organization, specified as such in regulations promulgated by the Minister or designated as a terrorist organization by the United Nations Security Council; or (vii) who is a representative of a political, social, or other similar group whose public endorsement of terrorism, or terrorist organizations, the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (b) A foreign who the Minister, after consultation with the Attorney General, determines has been associated with a terrorist organization or terrorism and intends while in the Marshall Islands to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the Marshall Islands.
2. A person who is the spouse or the child of an foreign national who is inadmissible under subsection 1, shall also be inadmissible, if the activity causing the foreign national to be found inadmissible occurred within the last 5 years.
3. Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be inadmissible to be admitted to the

Marshall Islands for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense.

Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be inadmissible to be admitted to the Marshall Islands for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense.

Sub-paragraph (g) – What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures, which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Section 17 of the Counter-Terrorism Act 2002 states that "The Republic of the Marshall Islands shall not grant refugee status or provide asylum or safe haven to any terrorist, or to any alleged offender.

Section 23 of the Counter-Terrorism Act 2002 states that

1. The following persons shall be inadmissible to the Marshall Islands for purposes of immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of the prosecution or extradition for a terrorist offense: (a) a foreign national (i) convicted of a terrorism offense; or (ii) who admits to having engaged in terrorism; or (iii) as to whom there is probable cause to believe such person has engaged in terrorism; (iv) who the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely after entry, to engage in terrorism; or (v) who has used his or her position of prominence within any country to endorse or espouse terrorism, or to persuade others to support terrorism or a terrorist organization, in a way that the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (vi) who is a representative of a terrorist organization, specified as such in regulations promulgated by the Minister or designated as a terrorist organization by the United Nations Security Council; or (vii) who is a representative of a political, social, or other similar group whose public endorsement of terrorism, or terrorist organizations, the Attorney General has determined undermines the efforts of the Marshall Islands to reduce or eliminate terrorism; (b) A foreign who the Minister, after consultation with the Attorney General, determines has been associated with a terrorist organization or terrorism and intends while in the Marshall Islands to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the Marshall Islands.
2. A person who is the spouse or the child of an foreign national who is inadmissible under subsection 1, shall also be inadmissible, if the activity causing the foreign national to be found inadmissible occurred within the last 5 years.
3. Except as otherwise provided in this section, foreign nationals who are inadmissible under this section, shall be inadmissible to be admitted to the Marshall Islands for any purpose, except, when necessary for the purposes of prosecution or extradition for a terrorism offense.

United Nations S/2003/146

Security Council

Distr.: General
4 February 2003

Original: English

Letter dated 31 January 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 August 2002 (S/2002/911).

The Counter-Terrorism Committee has received the attached supplementary report from Armenia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-23942 (E) 100203

Annex

Letter dated 24 January 2003 from the Permanent Representative of Armenia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Upon instructions from my Government, I have the honour to transmit to you the second report to be submitted by Armenia pursuant to paragraph 6 of the Security Council resolution 1373 (2001) (see enclosure).

The Government of Armenia stands ready to provide the Committee with any further information it may consider necessary.

(*Signed*) Movses **Abelian**
Ambassador
Permanent Representative

Enclosure

Additional information provided by Armenia pursuant to paragraph 6 of Security Council resolution 1373 (2001) in response to the questionnaire prepared by the Counter-Terrorism Committee

Sub-paragraphs 1 (a), (b), (c)

- **Please describe in more detail the new improved mechanisms that have been developed for bank reporting and exchange of information between the Central bank and the commercial banks operating in Armenia, as referred to in the report.**
- **Are there legal obligations for the financial institutions, other intermediaries (e.g. lawyers, notaries) and any other natural or legal persons to report suspicious transactions to a competent authority? What penalties apply to non-compliance with the obligation?**
- **Do the instructions of the Central Bank have the force of law? Do penalties apply if financial institutions do not comply with those instructions?**
- **Please outline Article 926 of the Civil Code relating to the freezing of funds. Please explain if Article 44 of the Constitution, as mentioned in the report, implies a restriction in regard to compliance with the Resolution.**
- **Is it possible to freeze funds and other financial assets held in Armenia belonging to non-resident persons and entities supporting terrorism abroad, on request of another country?**
- **Please outline article 40 of the Law on banks and Banking and explain how this provision contributes to compliance with this sub-paragraph**

Amendments to the *Law on Banks and Banking* adopted at the end of 2001 and the new *Law on Credit Institutions*, adopted in 2002, grant the Central Bank an authority to exert measures to prevent the use and transfer of illegal assets or the financing of terrorism. The Bank is entitled to define the specific ways of the functioning of the banks and credit institutions, and a special reporting procedure. The Central Bank is also entitled to request the bank, the credit institution or the clients thereof to submit a statement on the origins of the assets, or an instrument to proof its legality.

The Central Bank has proposed for the approval of the Ministry of Justice the protocol on *"Prevention of the Transaction of Illegal Assets and of the Financing of Terrorism,"* the reporting form for the *"Suspicious Activities,"* and the new *"Guidelines for Opening a Bank Account"* to be used at all banks. Under the proposed procedure, the banks' policy should be aimed at curbing the deposit and transactions of the illegal assets. The rules of the procedures of each bank should reflect its policy aimed at the prevention of illegal transactions and financing of terrorism.
Banks should report a suspicious transaction to the Central Bank within one working day. Failure to report such transaction is liable to penalty under the *"Law on Banks and Banking."*
The banks should be under obligation to restrict the use of assets belonging to clients whose names appear on the list of persons who finance terrorism.

However, the Ministry of Justice has denied the registration of the proposed instruments, motivating that the Central Bank does not have the authority to freeze the accounts of persons included in the lists of suspects. Based on this decision of the Ministry, the Central Bank shall propose amendments to the "Law on Banks and Banking," which would grant the Bank the authority to exercise such powers.

Additionally, the Central Bank is currently drafting a *"Law on the System of Payments"* which shall regulate the functioning and monitoring procedures of financial institutions.

The activities of lawyers and notary publics are regulated respectively through the *Law on Activities of Advocates* and *Law on Notary Public*. Lawyers and notaries do not have legal obligation to report suspicious transaction to competent authorities.

Under Article 52 of the *Law on Notary Public*, the notaries are entitled to deny services only on the basis of relevant grounds, which include, among others, unlawful actions. The notaries, however, are under no obligation to examine the conformity of the document submitted for ratification with the legislation.

Article 926 "Limitation of Disposition of the Account" of the Civil Code states, that 'Limitation of the rights of the client to dispose of the monetary funds on the account is not allowed, with the exception of cases of seizure of the monetary funds on the account or stoppage of operation of an account in cases provided by a statute.'

Article 44 of the Constitution states that "The fundamental human and civil rights and freedoms established under Articles 23, 24, 25, 26, 27 of the Constitution may only be restricted by law, if necessary for the protection of state and public security, public order, public health and morality, and the rights, freedoms, honor and reputation of others."

Sub-paragraph 2 (a)

- **Please outline Article 72 of the Criminal Code relating to the creation of armed groups. It would be useful if Armenia could provide examples of any action taken or any convictions obtained in this regard.**
- **What legal provisions or other measures exist to prevent recruitment in Armenia to terrorist groups operating outside Armenia?**
- **Please provide a progress report on the draft on tighter export and import control. Does this law include controls related to weapons and explosives? Please outline any relevant provisions of the law in this regard.**
- **Please outline Article 232 of the Criminal Code on weapons and the particular provisions of the Law on Arms that deal with manufacture, sale, possession, acquisition, registry, issuance of license, certification, transport, and storage of weapons and explosives.**
- **Please elaborate on the joint plan of action on prevention of trafficking in arms, armaments, explosives, and to combat terrorism.**

Article 72 of the *Criminal Code*[1] establishes legal liability for acts of banditry: "creation of armed groups aimed at the assault of state or non-governmental enterprises, institutions, organizations or individuals, as well as participation in such groups and their activities shall be subject to a prison sentence for the term of three to fifteen years, with the confiscation of property and an exile for two to five years, or without an exile, or to death penalty[2] with the confiscation of property.'

The *Law on Arms* specifies the types of small arms prohibited for the use as a means of civil or military defense. The Law also prohibits the 'transportation of arms, storage and possession of long-barrel fire-arms and side-arms as means of personal protection, the sale, transfer and acquisition of arms and cartridges manufactured for export only, in accordance with the requirements of the importing country.'

[1] Please note that all references are made to the Criminal Code of 1961. The new draft Criminal Code is now before the National Assembly, which in 2002 passed the General Provisions of the Code (General Principles of the criminal law) and considered the Specific Provisions (Provisions defining criminal offences of the new criminal code). The new Code of Criminal Proceedings has been in force since 1999.

[2] A de-facto moratorium on death penalty has been in force since 1992, and death penalty is abolished from the draft Criminal Code. The Constitution states that 'until such time as it is abolished, the death penalty may be prescribed for particularly grave crimes as an exceptional punishment.

Any manufacture, sale, acquisition or collection of arms should be licensed, except for the state organizations, which have legal right to arm its officers.

Cross border circulation of arms, armaments and explosives is subject to issuance of special license and is subject to special procedure. The border control over the transfer of arms is carried out by the border troops and the customs service.

The *Customs Code* provides criminal charges for illegal transfer of large cargo, cultural and other valuables, including arms, armaments, narcotics, poisonous and radioactive substances, explosives or explosive instruments across the border or forgery of customs documents. Relevant criminal charges for the smuggling are provided for by the *Criminal Code* and prescribe prison sentence for up to eight years and confiscation of property.

Illegal procurement of fire-arms, munitions or explosives is subject to prison sentence of up to eight years, or, if committed repeatedly or by a group of persons or a duty officer entitled to carry arms, to prison sentence for up to 10 years.

Sub-paragraph 2 (b)

- **Please describe the mechanisms for inter-agency coordination between the authorities responsible for narcotics, financial tracking and security, in particular with regard to border control to prevent the movement of terrorist groups.**
- **Please describe any existing measures taken or proposed to strengthen the security and control of aircraft, airports, and maritime navigation to prevent it from the movement of terrorists into, or out of the country.**

The Ministries of Security, Interior and Defense have developed a plan of actions aimed at the consolidation of the security on aircraft, at airports and vessels, which shall prevent the entry of the movement of terrorists to and from the country. Some provisions of the plan of action are protected by the "*Law on State and Official Classified Information.*"

The Ministry of National Security uses the information received from its foreign counterparts or Armenian state agencies, to prevent the persons connected to terrorist activities from entering Armenia. Such operations are, if necessary, conducted in collaboration with other agencies.

Sub-paragraph 2(c)

- **Please provide more detailed information on the particular legal provisions and procedures to deny safe haven to terrorists, including provisions and procedures for excluding and expelling terrorists.**

The **"Law on Foreign Nationals in Armenia"** sets procedures under which persons who threaten the security of Armenia can be expelled or denied residence permit. The entry to and exit from Armenia are subject to border control, which verifies the entry or exit documents.

Sub-paragraph 2 (d)

- **What is the competence of the courts of Armenia to deal with criminal acts of each of the following kinds:**
  - **an act committed outside Armenia by a person who is citizen of, or habitually resident in Armenia (whether that person is currently present in Armenia or not);**
  - **an act committed outside Armenia by a foreign national who is currently in Armenia?**

Article 15 of the *Criminal Code* stipulates that citizens of Armenia and stateless persons currently present in Armenia, who have committed criminal acts outside Armenia are subject to criminal responsibility under the provisions of the *Criminal Code* of Armenia, if they are prosecuted in Armenia. This implies that such persons, if

extradited to Armenia or if entered Armenia after having committed the criminal act, shall be tried under the *Code of Criminal Procedure* of Armenia.

A foreign national can be tried in Armenia only in the cases provided for by the international agreements to which Armenia is a party.
The *Criminal Code* provides, that the Armenian nationals, who have committed criminal acts abroad, as well as stateless persons residing in Armenia are subject to criminal charges before the Armenian courts, if extradited by the country where the crime has been committed or if the person has entered Armenia in some other way.

A foreign national can be charged in Armenia for crimes committed abroad, in the directly cases provided through international or bilateral agreements.

Sub-paragraph 2 (e)

- Please outline Articles 61, 62 and 63 of the Criminal Code, relating to terrorism.

Article 61 (Terrorist Act) of the *Criminal Code* stipulates that attempt of or murder of a state or public official, aimed at corrupting or weakening the state and committed in connection with the his/her official duties is punishable by imprisonment for 10-15 years with the confiscation of property or exile for 2-5 years, or without an exile, or death penalty (see reply to sub-paragraph 2 (a)). Serious injury of a state or public official in connection to his/her public activities is punishable by imprisonment for 8-15 years, with the confiscation of property and with or without exile for 2-5 years.

Article 62 of the *Criminal Code (Terrorist Act Directed against a Representative of a Foreign State)* establishes liability for the murder of a representative of a foreign state, if such acts are committed with an aim to provoke armed hostility or international tension. Such an act is punishable by imprisonment for 10-15 years with the confiscation of property and exile for 5 years. An injury on a representative of a foreign state is punishable by imprisonment for 8-15 years with or without an exile for 2-5 years.

Article 63 (Sabotage) Establishes punishment with imprisonment for 8-15 years with the confiscation of property and an exile for 2-5 years, or without an exile, or a death penalty (see reply to sub-paragraph 2 (a)) for causing an explosion or a commission of arson, if such acts are aimed at the corruption of state, mass murder or damage to health, destruction of state or public property, infrastructure, communication, or mass human or animal poisoning.

Sub-paragraph 2(f)

- **What procedures and mechanisms are in place to provide assistance in judicial investigation and proceedings with countries, other than the CIS countries?**
- **What is the legal timeframe within which a request for judicial assistance in criminal investigation or criminal proceedings (especially those relating to the financing or other support of terrorist acts) is required to be met and how long, on average, does it take in practice to implement such a request in Armenia?**

Armenia has entered into bilateral agreements on assistance in legal matters with Greece, Romania, and Bulgaria, and is a party to the European Conventions *'On legal assistance in criminal matters,' 'On transfer of the sentenced persons'* and *'On extradition.'*

The international instruments above stipulate that the request on criminal matters, such as taking into custody, arrest, extradition or other relevant judiciary actions, including the conviction of a person who is currently on the territory of Armenia, should be done in compliance with the provisions of the *Code of Criminal Procedures of Armenia*. The Code does not specify a time frame for the action on the request, however, the international treaties set a one-month deadline for such action, and the Armenian authorities are under the obligation to comply with the international treaties (*Article 6* of the *Constitution*).

Sub-paragraph 3 (c)

- Please provide a list, if any, of the countries with which Armenia has concluded bilateral treaties on cooperation in administrative and judicial matters relating to terrorism.

Armenia has not entered in specific bilateral treaties or agreements on counter-terrorism. However, treaties on cooperation on criminal maters include also matters relating to terrorism and organized crime.

Sub-paragraph 3 (d)

- The CTC would welcome a report, in relating to the relevant international conventions and protocols relating to terrorism, on the progress made by Armenia in:
— becoming a party to instruments to which it is not yet a party; and
— enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

The legislative reform underway in Armenia is aimed at, inter alia, integration of the international norms and provisions into the national legislation. This, in particular, means that the new draft Criminal Code shall include articles on terrorism (these shall essentially differ from the provisions regarding the terrorist act in the current Code).

Sub-paragraph 3 (f)

- What procedures and mechanisms exist to ensure that asylum seekers have not been involved in terrorist activity before granting refugee status?

Article 6 of the *Law on Refugees* stipulates that the refugee status shall not be granted to persons who have committed criminal offence, war crime, or crime against humanity, or any non-political offence before entering the territory of Armenia, or are under a court verdict for crimes, which violate the principles of the United Nations.
An applicant shall submit relevant evidence that he/she is eligible for refugee status, which is granted only to the persons who do not constitute threat to the national security of Armenia and whose application is legal.

Same restrictions apply to the applications for political asylum (*Article 6* of the *Law on Political Asylum*).

Sub-paragraph 3 (g)

- **What is the basis for extradition in Armenia? Is it governed by legislation, treaties or both? Please outline the relevant legal provision.**
- **Please provide a list of the countries with which Armenia has concluded bilateral treaties on extradition, other than with the CIS countries.**
- **Are claims of political motivation grounds for refusing extradition of alleged terrorists?**

According to *Article 474* and other relevant provisions of the *Code of Criminal Procedures*, a person can be extradited from Armenia on the basis of a bilateral agreement with the requesting party. The terms of extradition – grounds, bases for refusal, delay of extradition, temporary extradition – are regulated through *Articles 480-494*. Most of the Articles are based on the norms set forth in the international treaties and agreements related to extradition. If the provisions of the international instrument contradict to those of the Armenian legislation, the former should prevail (*Article 6* of the *Constitution*, *Article 5* of the *Law on International Agreements*).

Bilateral treaties with Greece, Romania, and Bulgaria regulate, among other points of legal assistance in criminal matters, the issues relating to extradition.

Article 481 of the *Code of Criminal Procedures* stipulates that the political persecution is a relevant ground for the refusal of extradition, which means that an extradition of a person persecuted on criminal charges cannot be refused for political motivations. However, under the criminal doctrine of Armenia a terrorist may not be considered as a victim of political persecution or be protected on political motivations.